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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,207	09/30/2003	William A. Rundquist	6057-53100	7694
35690 7590 01/28/2009 MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C. P.O. BOX 398 AUSTIN, TX 78767-0398				
EXAMINER				
BLAIR, DOUGLAS B				
ART UNIT		PAPER NUMBER		
2442				
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01/28/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/676,207

**Applicant(s)**

RUNDQUIST ET AL.

**Examiner**

DOUGLAS B. BLAIR

**Art Unit**

2442

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-13, and 14-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/S5108)  
Paper No(s)/Mail Date 7/17/2008
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

Claims 1, 3-5, 7-10, 12, and 13 have been amended. Claims 2 and 14 have been cancelled. Claims 15-23 have been added. Claims 1, 3-13, and 15-23 are currently pending.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 3-13, and 15-23 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 8-12 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 8-12 are directed towards a system comprised only of a server. A server by definition is a software element that answers socket requests from clients. Because claims 8-12 are directed towards software per se, they do not fit into a category of invention.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by  
PCT/US99/07818 by Golden et al. (Part of IDS filed on 7/17/2008).

As to claim 7, Golden teaches a method for transferring data between a wide area network and a computer system located on a local area network, comprising: receiving the data from the wide area network at a digital device that is connected to both the wide area network and the local area network, the data being destined for the computer system located on the local area network (embodiment in Figure 9); receiving a signal indicating that the data is to be transferred to the computer system at a rate higher than a the specified minimum rate (page 7, lines 25-28 and page 9, lines 2-11); formatting packets that contain the data to indicate that the data is to be transmitted at the rate higher than the specified minimum rate (page 9, lines 23-26, the claims do not specify how the packets are formatted or what element actually does the formatting); and sending the packets that contain the data to the computer system, in order to establish a communication link between the wide area network and the local area network for transmitting data at the rate higher than the specified minimum rate wherein establishing the communication link comprises establishing a standard session initiation between the digital device and the computer system (embodiment in Figure 9).

As to claim 23, Golden teaches the method of claim 7, wherein the standard session initiation comprises framing and QOS at the MAC layer protocols (page 9).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-6, 8-13, and 15-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over PCT/US99/07818 by Golden et al. (Part of IDS filed on 7/17/2008) in view of U.S. Patent Number 7,283,561 to Picher-Dempsey.

As to claim 1, Golden teaches a method for transferring data between a wide area network and a computer system located on a local area network, comprising: receiving the data from the wide area network at a digital device that is connected to both the wide area network and the local area network, the data being destined for the computer system located on the local area network (embodiment in Figure 9); receiving a signal, separate from the received data, indicating that the data is to be transferred to the computer system with a guaranteed quality of service wherein the signal is received from an Enterprise Control Point and wherein the data is received by a separate content provider (page 7, lines 25-28 and page 9, lines 2-11); formatting packets that contain the data to indicate that the data is to be transmitted at the requested guaranteed quality of service (page 9, lines 23-26, the claims do not specify how the packets are formatted or what element actually does the formatting); and sending the packets that contain the data to the computer system in order to establish a guaranteed quality of service path between the wide area network and the local area network (embodiment in Figure 9); however Golden does not explicitly state that the Enterprise Control Point is a server.

Picher-Dempsey teaches a server that is capable of sending a signal to routers indicating that data is to be transferred from a wide area network to a local area network with a guaranteed quality of service (See the IP/Qos module shown in Figures 1 and 2 and their corresponding descriptions).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Golden regarding the transfer of prioritized data between two networks with the teachings of Picher-Dempsey regarding the use of a server for centralized control functionality because Golden states that the Enterprise Control Point could be implemented as a separate software entity (page 4, lines 24-32) and Picher-Dempsey shows one possible example of such a separate software entity.

As to the rest of the independent claims they are rejected for the same reasoning as shown in the rejection of claim 1.

As to the dependent claims, these elements should be evident from the mapping of claim 1 and corresponding teachings of Golden.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 7/17/2008 also prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.**

See MPEP § 706.07(a) and MPEP § 609.04(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOUGLAS B. BLAIR whose telephone number is (571)272-3893. The examiner can normally be reached on 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Douglas B Blair/  
Primary Examiner, Art Unit 2442